

ORDER NUMBER: 529
DATED: February 28, 1977
AMENDED: April 11, 1977

BEFORE THE WASHINGTON STATE ENERGY
FACILITY SITE EVALUATION COUNCIL

In the Matter of Application
No. 76-2 of the

NORTHERN TIER PIPELINE COMPANY
A MONTANA CORPORATION

.....

ORDER

This matter having come on before the Energy Facility Site
Evaluation Council at a hearing scheduled by said Council at the
following times and places:

- 1) Port Angeles (Clallam County), Washington, September 2
and October 21, 1976;
- 2) Port Townsend (Jefferson County), Washington,
September 7, 1976;
- 3) Shelton (Mason County), Washington, September 8, 1976;
- 4) Olympia (Thurston County), Washington, September 9, 1976;
- 5) Ellensburg (Kittitas County), Washington, September 14,
1976;
- 6) Ephrata (Grant County), Washington, September 15, 1976;
- 7) Davenport (Lincoln County), Washington, September 16,
1976;
- 8) Spokane (Spokane County), Washington, September 16,
1976;
- 9) Enumclaw (King County), Washington, September 22, 1976;
and
- 10) Tacoma (Pierce County), Washington, September 23 and
October 19, 1976.

I. BACKGROUND

The above hearing was held on the application of the Northern Tier Pipeline Company, dated July 6, 1976, requesting site certification approval, said hearing being set by this Council for the purpose of making a determination pursuant to RCW 80.50.090 as to whether the proposed Northern Tier Pipeline Company deep-water tanker unloading facility, on-shore storage facility, and pipeline and associated facilities in Clallam County, and proposed pipeline and associated facilities in Jefferson, Mason, Thurston, Pierce, King, Kittitas, Grant, Lincoln, and Spokane Counties are consistent and in compliance with the respective county or regional land use plans or zoning ordinances; the Council having heard the sworn testimony of witnesses for applicant and the various counties, and having heard the arguments and read the briefs of counsel for the applicant, counties, intervenors, and counsel for the environment and having considered the exhibits admitted into evidence together with the files and records herein, and having proposed and voted upon the findings and conclusions during the course of the hearing in each of the aforesaid counties, hereby makes and enters findings, conclusions, and orders as hereinafter set forth.

Insofar as the Shoreline Management Act of 1971 and its effect on the issues in this matter, attention is directed to the provisions of RCW chapter 80.50, with particular reference to RCW 80.50.110, and RCW chapter 90.58 of said Act, with particular reference to RCW 90.58.140(a). The Council recognizes that the future contested case hearing mandated by RCW 80.50.090 is designed, and will be utilized to consider provisions of the nature of those provided for by the Shorelines Management Act, as well as by other state statutes that are superseded by the provisions of RCW 80.50.

In the course of the above hearing sessions, the Council encountered a number of zoning ordinances wherein conditional or unclassified use provisions may have to be exercised for the proposed pipeline and associated facilities; these provisions may include prerequisite conditions to be fulfilled. In arriving at its determinations, the Council recognizes that the future contested case hearing mandated by RCW 80.50.090 is designed, and will be utilized, to consider provisions of the nature provided for by conditional or unclassified use provisions of zoning ordinances. The issue of fulfillment or non-fulfillment will be evaluated in the course of hearing in connection with formulation of Council recommendations to the Governor as to whether or not the proposed pipeline should be certificated.

II. FINDINGS RELATING GENERALLY TO APPLICATION

1. That these findings relate to the marine oil terminal, tank farm, pipeline corridor and associated facilities described

in the document of the Northern Tier Pipeline Company (hereinafter referred to as "applicant") in the nature of an application (hereinafter referred to as "application"), submitted July 6, 1976 as amended by Supplement Number 1 and the additional submissions of August 20, 1976 as further modified by the stipulations of record made by the applicant during the public hearings conducted pursuant to RCW 80.50.090.

2. That the applicant is a "person", i.e., a corporation under RCW 80.50.020.

3. That on July 6, 1976 applicant submitted an application to the Energy Facility Site Evaluation Council (hereinafter referred to as "Council") pursuant to RCW chapter 80.50 for site approval of an energy facility consisting of a tanker unloading facility on Ediz Hook in the City of Port Angeles; a storage site, approximately a 240 acre tract in the vicinity of Green Point (Clallam County) upon which applicant proposes to build storage tanks for the purpose of receiving and storing crude petroleum transported by oil tankers to the Port Angeles unloading facility from oil fields located in the Far East and in Alaska; and a pipeline and associated facilities extending from the storage site across portions of Clallam, Jefferson, Mason, Thurston, Pierce, King, Kittitas, Grant, Lincoln and Spokane Counties.

4. That the time of submission of its application on July 6, 1976, applicant requested that the Council waive the 90-day notice of intention to file an application as provided in WAC 463-08-023 and that a special meeting be called by the Council on July 8, 1976 to consider the request for waiver.

5. That at a special meeting held in Olympia, Washington on July 8, 1976, the Council granted applicant's request for waiver of the 90-day period, and implemented the provisions of WAC 463-08-020 which provides that within 30 days the Council shall notify applicant whether the application as filed on July 6, 1976 would be granted official status.

6. On July 26, 1976 at a regular meeting of the Council, it determined that the application filed on July 6, 1976 should not be accorded official status for lack of adequate information in the application. The determination was made without prejudice to the applicant to file a new application.

7. On July 28, 1976 the Council on its own motion voted to reconsider its action of July 26 and upon such reconsideration, to accord official status to the application filed on July 6, 1976 contingent upon the receipt of additional information specified by the Council by August 20, 1976.

III. SEPARATE FINDINGS AND CONCLUSIONS AS TO EACH COUNTY

1. Clallam County

A. Findings:

(1) That in June of 1967, Clallam County adopted a comprehensive plan containing broad, general policy-type guidelines designed to guide the future growth and development of the county, together with several illustrative charts and maps, including a map entitled "Land Use."

(2) That on July 8, 1976, the Clallam County Board of Commissioners adopted Ordinance 70 which is designed to prohibit oil ports and associated facilities from locating any place in Clallam County.

(3) That at the time of filing of the application with the Council, the location of the proposed marine oil terminal on Ediz Hook in Port Angeles was in an area zoned industrial under the Port Angeles Zoning Ordinance adopted on December 17, 1970 as Ordinance No. 1709.

(4) That on March 2, 1972, Clallam County adopted the text of a zoning ordinance, Ordinance Number 41 which was declared by the Washington Supreme Court on December 19, 1974, in Byers v. Board of Clallam County Commissioners, 84 Wn. 2d 796, to have been illegally adopted and, therefore, void.

(5) That on December 20, 1973, pursuant to the authority and provisions of RCW chapter 36.70, Clallam County adopted a "Temporary Interim Zoning Map" designed to regulate or zone certain properties located in the eastern portion of the county; the action adopting the map has not been repealed nor subjected to court decision.

(6) Mr. Ken Sweeney, Clallam County Planning Director, stated that prior to and at the time of the filing of the application, July 6, 1976, the Clallam County East End Temporary Interim Zoning Map adopted December 20, 1973, was not enforced, based upon advice of the office of the Clallam County Prosecuting Attorney.

(7) That applicant had knowledge of the facts set forth in Number 6, above, at the time of the filing of application for site certification on July 6, 1976.

(8) That Ordinance Number 41, which superseded previous Clallam County Zoning ordinances, was the only zoning ordinance text to have been adopted by Clallam County at the time of the filing of the application.

(9) That applicant's proposed tank storage site lies within the geographic boundaries as covered by the Temporary Interim Zoning Map.

(10) That the Temporary Interim Zoning Map has an R-2 designation thereon indicating that applicant's proposed tank farm site is located within the R-2 area and the only text or explanation of regulations imposed upon the properties located within the area covered by the Temporary Interim Zoning Map is found on the legend of the map which indicates that the designation R-2 is "Suburban Residential."

(11) That the term R-2 Suburban Residential and other references to land use classification on the map are not defined or explained and there is no reference thereon to any text or to any other external explanation which would indicate what specific uses are allowed or excluded from the R-2 Suburban Residential Zone or any other zone.

(12) That prior to July 8, 1976, the Clallam County Comprehensive Plan did not expressly prohibit tank farm use in areas proposed on the land use map for "agricultural and residential" use.

(13) That the Clallam County Comprehensive Plan Map entitled "Land Use" indicates that the area in the vicinity of the proposed tank farm is appropriate for agricultural and residential use.

(14) That the proposed tank farm is not an agricultural or residential land use.

(15)(a) That at the time of this hearing, Clallam County treated its comprehensive plan as an operative land use planning tool.

(b) That Clallam County's zoning ordinance or comprehensive plan contain no provisions which preclude the location of an oil pipeline and associated facilities.

(16) That on October 5, 1976, the Council of the City of Port Angeles passed an ordinance amending the city's comprehensive plan by adding the following paragraphs to the industrial development policies set forth in said comprehensive plan:

"Establishment of an oil port in the City of Port Angeles is hazardous to the community and detrimental to the environment and general ecology of the area and accordingly should be prohibited."

"An oil port is defined as facilities which will result in the receipt of more than an average of 50,000 barrels per day of crude or refined petroleum which has been or will be transferred over marine waters."

B. Conclusions:

(1) That the Temporary Interim Zoning Map adopted by the Clallam County Board of Commissioners on December 20, 1973 was not declared invalid in the court decision in Byers v. Board of Clallam County Commissioners, 84 Wn 2d 796, or any subsequent court decision and, therefore, it is presumed to be a valid county zoning ordinance.

(2) That the Temporary Interim Zoning Map classifies the land area proposed as a tank farm site as suburban residential "R-2" and therefore the proposed use is not in compliance therewith.

(3) That the Clallam County Comprehensive Plan is a valid land use plan within the meaning of RCW 80.50.090.

(4) That the Clallam County Comprehensive Plan does not contemplate the proposed tank farm being located upon its proposed site and therefore the proposed tank farm is inconsistent with said plan.

(5) That the July 8, 1976 amendment to the Clallam County Comprehensive Plan, designated as Ordinance No. 70, which purports to ban oil ports and associated facilities, was adopted subsequent to July 6, 1976, the date of application, and therefore, pursuant to RCW 80.50.090 has no applicability to these proceedings.

(6) That the recently adopted amendment to the City of Port Angeles Comprehensive Plan and any similar amendments to the city's zoning ordinances which either have been or may be adopted by the city which purport to ban oil ports and associated facilities are all effective subsequent to July 6, 1976, the date of the application and, therefore, pursuant to RCW 80.50.090, have no applicability to these proceedings.

(7) That the proposed marine oil terminal is located in an area that is zoned industrial under the Port Angeles zoning regulations adopted on December 17, 1970 as Ordinance No. 1709 is consistent and in compliance with City of Port Angeles land use plans and zoning ordinances.

(8) That the proposed pipeline and associated facilities are consistent and in compliance with the City of Port Angeles and the Clallam County land use plans or zoning ordinances in all of the proposed locations within Clallam County.

2. Jefferson County

A. Findings:

(1) That Jefferson County has an adopted comprehensive plan effective August 16, 1971; the plan contains no provisions which are directed toward precluding the location of an oil pipeline and associated facilities.

(2) That Jefferson County has not adopted any zoning ordinances nor classified any land areas for specific uses.

(3) That Jefferson County is a member of a Regional Planning Council as are other municipalities within the county, and that the Planning Council has not adopted any land use regional plans affecting the application.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with county or regional land use plans or zoning ordinances that are in effect and which apply to those sites in Jefferson County.

3. Mason County

A. Findings:

(1) That Mason County apparently adopted a comprehensive land use plan in 1971, however, no adopting document or date of adoption was submitted.

(2) That Mr. Connolly, Mason County Planning Director, testified that the county had adopted a zoning ordinance "some-time past," however, that ordinance did not include a classification map and no zoning ordinance was submitted for consideration.

(3) That the comprehensive plan does not address pipelines or associated facilities.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with all county land use plans and zoning ordinances that were in effect at time of application.

4. Thurston County

A. Findings:

(1) That Thurston County has adopted an interim zoning ordinance which was in effect prior to and after July 6, 1976.

(2) That Thurston County adopted a comprehensive plan on July 8, 1975.

(3) That neither the interim zoning ordinance nor the comprehensive plan addresses pipelines or associated facilities.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with all county land use plans or zoning ordinances that were in effect at the time of application.

5. Pierce County

A. Findings:

(1) That Pierce County has adopted a generalized comprehensive plan on April 2, 1962.

(2) That Pierce County has adopted a zoning code on May 8, 1962.

(3) That both the plan and code were in effect on July 6, 1976 and neither addresses pipelines and associated facilities.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with county or regional land use plans or zoning ordinances that are in effect and which apply to those sites in Pierce County.

6. King County

A. Findings:

(1) That King County has adopted a comprehensive land use plan and comprehensive plan map on October 13, 1964; various amendments were adopted subsequently through 1974 and were submitted as supplements to the plan.

(2) That King County adopted a zoning ordinance on April 29, 1963 with subsequent amendments through February 29, 1976. Zoning maps applicable to the area of the proposed pipeline have effective dates of February 4, 1974 and December 16, 1974.

(3) That both the county comprehensive plan and zoning ordinance address facilities similar to pipelines and generally define same as public utilities. The zoning code sets various conditions for public utilities with qualifying provision allowing installation.

(4) That the county has allowed a petroleum pipeline to transverse the county as an "outright use" acting under the same zoning codes.

(5) That the proposed pipeline may pass through a portion of the City of Enumclaw.

(6) That the City of Enumclaw adopted a comprehensive land use plan in December 1969 and zoning ordinance and maps were adopted October 8, 1973.

(7) That Enumclaw's comprehensive plan and zoning ordinance are silent with regard to petroleum pipelines.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with all county and the City of Enumclaw's land use plans and zoning ordinances that were in effect at time of application.

7. Kittitas County

A. Findings:

(1) That Kittitas County adopted a county comprehensive plan on June 5, 1972.

(2) That Kittitas County adopted a county zoning ordinance on January 15, 1968.

(3) That both the plan and ordinance were in effect on July 6, 1976.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with county or regional land use plans or zoning ordinances that are in effect and which apply to those sites in Kittitas County.

8. Grant County

A. Findings:

(1) That Grant County adopted a county comprehensive plan for the entire county in September 1963.

(2) That Grant County has a county zoning ordinance adopted on August 6, 1946, with subsequent amendments through 1976.

(3) That the City of Ephrata has a comprehensive plan, adopted on August 6, 1969, which plan does not involve the area of the proposed pipeline and associated facilities.

(4) That the City of Ephrata adopted a city zoning ordinance, Title 19, shown as being initially adopted in 1956 with subsequent amendments, such as in 1957 and 1966.

B. Conclusions:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with the Grant County's land use plan and zoning ordinance.

(2) That the proposed pipeline and associated facilities are consistent and in compliance with the City of Ephrata's land use plan and zoning ordinance.

9. Lincoln County

A. Findings:

(1) That Lincoln County adopted a comprehensive plan on March 6, 1962 and amended same on June 7, 1965.

(2) That the county plan sets forth land use categories, but does not apply these categories to any land nor does it include a land use map.

(3) That the county adopted a zoning ordinance on June 4, 1962 and amended same through May 12, 1969.

(4) That neither the comprehensive plan nor zoning ordinance addresses pipelines or associated facilities.

(5) That Mr. Terry Goodman, Planning Director, testified that he, the Planning Commission, and the Board of County Commissioners have concurred that the proposed pipeline and associated facilities are consistent with Lincoln County's comprehensive plan and zoning ordinance.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with Lincoln County comprehensive plans and zoning ordinances.

10. Spokane County

A. Findings:

(1) That Spokane County adopted a comprehensive plan, as prepared by the Spokane Regional Planning Conference, on December 21, 1961 with subsequent amendments on May 28, 1964 and March 26, 1970. A plan map for the metropolitan area of the county was adopted by the Planning Conference (regional) October 22, 1968.

(2) That the county adopted a zoning ordinance on December 17, 1937 and subsequent amendments through October 30, 1975. The zoning ordinance includes a series of zoning maps classifying land areas for the entire county.

(3) The zoning ordinance defines and sets forth conditions for "public utility facilities." The definition does not specifically address petroleum pipelines, however, the definition provides for inclusion of facilities "erected" by other "similar entities."

(4) That if the proposed pipeline is not a public utility, then both the comprehensive plan and zoning ordinance are silent regarding pipelines.

(5) That other petroleum pipelines transverse the county and were erected subsequent to the adoption of the same zoning ordinances.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with Spokane County or regional land use plans or zoning ordinance in effect at date of application.

IV. ORDER

IT IS ORDERED That insofar as Clallam County:

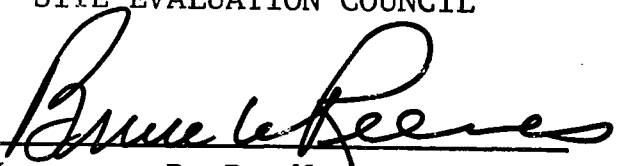
1. The proposed Northern Tier Pipeline Company marine oil terminal and pipeline and associated facilities are hereby determined to be consistent and in compliance with county or regional land use plans or zoning ordinances that were in effect on July 6, 1976 and which apply to those sites in Clallam County and the City of Port Angeles.

2. The proposed Northern Tier Pipeline Company tank farm is hereby determined to be inconsistent and not in compliance with the Clallam County comprehensive plan and zoning ordinances that were in effect on July 6, 1976 and which apply to the site in Clallam County.

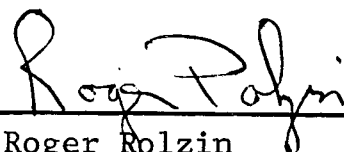
3. That insofar as Jefferson, Mason, Thurston, Pierce, King, Kittitas, Grant, Lincoln and Spokane Counties, and the municipalities of Enumclaw and Ephrata, the aforementioned pipeline and associated facilities are hereby determined to be consistent and in compliance with county or regional land use plans or zoning ordinances that were in effect on July 6, 1976 and which apply to sites in the above county and city areas.

Dated at Olympia, Washington, and effective this 28th day of February 1977.

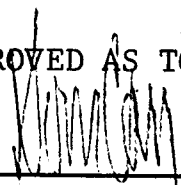
WASHINGTON STATE ENERGY FACILITY
SITE EVALUATION COUNCIL

BY 
for Lawrence B. Bradley
Chairman

ATTEST:

BY 
Roger Rolzin
Executive Secretary

APPROVED AS TO FORM:

BY 
Thomas F. Carr
Assistant Attorney General

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

In the Matter of the
Application

Northern Tier Pipeline Company
a Montana Corporation
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Application No. 76-2

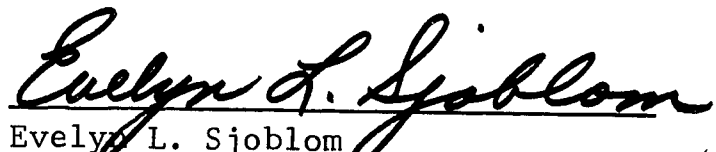
PROOF OF SERVICE

The undersigned certifies that on March 7, 1977, she served
the attached:

Memorandum dated March 7, 1977 (Polzin to Northern Tier
Distribution List) Subject: Council Order No. 529 Re-
lating to Initial Land Use Hearings

by depositing copies thereof in the United States mail, properly
stamped and addressed, as indicated on the Northern Tier distri-
bution list Rev. 2-22-77.

Dated March 7, 1977


Evelyn L. Sjoblom
Administrative Assistant

ORDER NUMBER: 529
DATE: February 28, 1977

BEFORE THE WASHINGTON STATE ENERGY
FACILITY SITE EVALUATION COUNCIL

In the Matter of Application
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I. BACKGROUND

The above hearing was held on the application of the Northern Tier Pipeline Company, dated July 6, 1976, requesting site certification approval, said hearing being set by this Council for the purpose of making a determination pursuant to RCW 80.50.090 as to whether the proposed Northern Tier Pipeline Company deep-water tanker unloading facility, on-shore storage facility, and pipeline and associated facilities in Clallam County, and proposed pipeline and associated facilities in Jefferson, Mason, Thurston, Pierce, King, Kittitas, Grant, Lincoln, and Spokane Counties are consistent and in compliance with the respective county or regional land use plans or zoning ordinances; the Council having heard the sworn testimony of witnesses for applicant and the various counties, and having heard the arguments and read the briefs of counsel for the applicant, counties, intervenors, and counsel for the environment and having considered the exhibits admitted into evidence together with the files and records herein, and having proposed and voted upon the findings and conclusions during the course of the hearing in each of the aforesaid counties, hereby makes and enters findings, conclusions, and orders as hereinafter set forth.

Insofar as the Shoreline Management Act of 1971 and its effect on the issues in this matter, attention is directed to the provisions of RCW chapter 80.50, with particular reference to RCW 80.50.110, and, RCW chapter 90.58 of said Act, with particular reference to RCW 98.58.140(a). The Council recognizes that the future contested case hearing mandated by RCW 80.50.090 is designed, and will be utilized to consider provisions of the nature of those provided for by the Shorelines Management Act, as well as by other state statutes that are superseded by the provisions of RCW 80.50.

In the course of the above hearing sessions, the Council encountered a number of zoning ordinances wherein conditional or unclassified use provisions may have to be exercised for the proposed pipeline and associated facilities; these provisions may include prerequisite conditions to be fulfilled. In arriving at its determinations, the Council recognizes that the future contested case hearing mandated by RCW 80.50.090 is designed, and will be utilized, to consider provisions of the nature provided for by conditional or unclassified use provisions of zoning ordinances. The issue of fulfillment or non-fulfillment will be evaluated in the course of hearing in connection with formulation of Council recommendations to the Governor as to whether or not the proposed pipeline should be certificated.

II. FINDINGS RELATING GENERALLY TO APPLICATION

1. That these findings relate to the marine oil terminal, tank farm, pipeline corridor and associated facilities described

in the document of the Northern Tier Pipeline Company (hereinafter referred to as "applicant") in the nature of an application (hereinafter referred to as "application"), submitted July 6, 1976 as amended by Supplement Number 1 and the additional submissions of August 20, 1976 as further modified by the stipulations of record made by the applicant during the public hearings conducted pursuant to RCW 80.50.090.

2. That the applicant is a "person", i.e., a corporation under RCW 80.50.020.

3. That on July 6, 1976 applicant submitted an application to the Energy Facility Site Evaluation Council (hereinafter referred to as "Council") pursuant to RCW chapter 80.50 for site approval of an energy facility consisting of a tanker unloading facility on Ediz Hook in the City of Port Angeles; a storage site, approximately a 240 acre tract in the vicinity of Green Point (Clallam County) upon which applicant proposes to build storage tanks for the purpose of receiving and storing crude petroleum transported by oil tankers to the Port Angeles unloading facility from oil fields located in the Far East and in Alaska; and a pipeline and associated facilities extending from the storage site across portions of Clallam, Jefferson, Mason, Thurston, Pierce, King, Kittitas, Grant, Lincoln and Spokane Counties.

4. That the time of submission of its application on July 6, 1976, applicant requested that the Council waive the 90-day notice of intention to file an application as provided in WAC 463-08-023 and that a special meeting be called by the Council on July 8, 1976 to consider the request for waiver.

5. That at a special meeting held in Olympia, Washington on July 8, 1976, the Council granted applicant's request for waiver of the 90-day period, and implemented the provisions of WAC 463-08-020 which provides that within 30 days the Council shall notify applicant whether the application as filed on July 6, 1976 would be granted official status.

6. On July 26, 1976 at a regular meeting of the Council, it determined that the application filed on July 6, 1976 should not be accorded official status for lack of adequate information in the application. The determination was made without prejudice to the applicant to file a new application.

7. On July 28, 1976 the Council on its own motion voted to reconsider its action of July 26 and upon such reconsideration, to accord official status to the application filed on July 6, 1976 contingent upon the receipt of additional information specified by the Council by August 20, 1976.

III. SEPARATE FINDINGS AND CONCLUSIONS AS TO EACH COUNTY

1. Clallam County

A. Findings:

(1) That in June of 1967, Clallam County adopted a comprehensive plan containing broad, general policy-type guidelines designed to guide the future growth and development of the county, together with several illustrative charts and maps, including a map entitled "Land Use."

(2) That on July 8, 1976, the Clallam County Board of Commissioners adopted Ordinance 70 which is designed to prohibit oil ports and associated facilities from locating any place in Clallam County.

(3) That at the time of filing of the application with the Council, the location of the proposed marine oil terminal on Ediz Hook in Port Angeles was in an area zoned industrial under the Port Angeles Zoning Ordinance adopted on December 17, 1970 as Ordinance No. 1709.

(4) That on March 2, 1972, Clallam County adopted the text of a zoning ordinance, Ordinance Number 41 which was declared by the Washington Supreme Court on December 19, 1974, in Byers v. Board of Clallam County Commissioners, 84 Wn. 2d 796, to have been illegally adopted and, therefore, void.

(5) That on December 20, 1973, pursuant to the authority and provisions of RCW chapter 36.70, Clallam County adopted a "Temporary Interim Zoning Map" designed to regulate or zone certain properties located in the eastern portion of the county; the action adopting the map has not been repealed nor subjected to court decision.

(6) That prior to and at the time of the filing of the application on July 6, 1976, the Clallam County "East-End" Temporary Interim Zoning Map adopted December 20, 1973 was not enforced as a zoning ordinance by Mr. Ken Sweeney, the Clallam County Planning Director, based upon advice of Mr. Craig Ritchie, Clallam County Prosecutor, that the office of the Prosecutor was not enforcing the ordinance.

(7) That applicant had knowledge of the facts set forth in Number 6, above, at the time of the filing of application for site certification on July 6, 1976.

(8) That Ordinance Number 41, which superseded previous Clallam County zoning ordinances, was the only zoning ordinance text to have been adopted by Clallam County at the time of the filing of the application.

(9) That applicant's proposed tank storage site lies within the geographic boundaries as covered by the Temporary Interim Zoning Map.

(10) That the Temporary Interim Zoning Map has an R-2 designation thereon indicating that applicant's proposed tank farm site is located within the R-2 area and the only text or explanation of regulations imposed upon the properties located within the area covered by the Temporary Interim Zoning Map is found on the legend of the map which indicates that the designation R-2 is "Suburban Residential."

(11) That the term R-2 Suburban Residential and other references to land use classification on the map are not defined or explained and there is no reference thereon to any text or to any other external explanation which would indicate what specific uses are allowed or excluded from the R-2 Suburban Residential Zone or any other zone.

(12) That prior to July 8, 1976, the Clallam County Comprehensive Plan did not expressly prohibit tank farm use in areas proposed on the land use map for "agricultural and residential" use.

(13) That the Clallam County Comprehensive Plan Map entitled "Land Use" indicates that the area in the vicinity of the proposed tank farm is appropriate for agricultural and residential use.

(14) That the proposed tank farm is not an agricultural or residential land use.

(15) That at the time of this hearing, Clallam County treated its comprehensive plan as an operative land use planning tool.

(16) That on October 5, 1976, the Council of the City of Port Angeles passed an ordinance amending the city's comprehensive plan by adding the following paragraphs to the industrial development policies set forth in said comprehensive plan:

"Establishment of an oil port in the City of Port Angeles is hazardous to the community and detrimental to the environment and general ecology of the area and accordingly should be prohibited."

"An oil port is defined as facilities which will result in the receipt of more than an average of 50,000 barrels per day of crude or refined petroleum which has been or will be transferred over marine waters."

B. Conclusions:

(1) That the Temporary Interim Zoning Map adopted by the Clallam County Board of Commissioners on December 20, 1973 was not declared invalid in the court decision in Byers v. Board of Clallam County Commissioners, 84 Wn 2d 796, or any subsequent court decision and, therefore, it is presumed to be a valid county zoning ordinance.

(2) That the Temporary Interim Zoning Map classifies the land area proposed as a tank farm site as suburban residential "R-2" and therefore the proposed use is not in compliance therewith.

(3) That the Clallam County Comprehensive Plan is a valid land use plan within the meaning of RCW 80.50.090.

(4) That the Clallam County Comprehensive Plan does not contemplate the proposed tank farm being located upon its proposed site and therefore the proposed tank farm is inconsistent with said plan.

(5) That the July 8, 1976 amendment to the Clallam County Comprehensive Plan, designated as Ordinance No. 70, which purports to ban oil ports and associated facilities, was adopted subsequent to July 6, 1976, the date of application, and therefore, pursuant to RCW 80.50.090 has no applicability to these proceedings.

(6) That the recently adopted amendment to the City of Port Angeles Comprehensive Plan and any similar amendments to the city's zoning ordinances which either have been or may be adopted by the city which purport to ban oil ports and associated facilities are all effective subsequent to July 6, 1976, the date of the application and, therefore, pursuant to RCW 80.50.090, have no applicability to these proceedings.

(7) That the proposed marine oil terminal is located in an area that is zoned industrial under the Port Angeles zoning regulations adopted on December 17, 1970 as Ordinance No. 1709 is consistent and in compliance with City of Port Angeles land use plans and zoning ordinances.

(8) That the proposed pipeline and associated facilities are consistent and in compliance with the City of Port Angeles and the Clallam County land use plans or zoning ordinances in all of the proposed locations within Clallam County.

2. Jefferson County

A. Findings:

(1) That Jefferson County has an adopted comprehensive plan effective August 16, 1971; the plan contains no provisions which are directed toward precluding the location of an oil pipeline and associated facilities.

(2) That Jefferson County has not adopted any zoning ordinances nor classified any land areas for specific uses.

(3) That Jefferson County is a member of a Regional Planning Council as are other municipalities within the county, and that the Planning Council has not adopted any land use regional plans affecting the application.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with county or regional land use plans or zoning ordinances that are in effect and which apply to those sites in Jefferson County.

3. Mason County

A. Findings:

(1) That Mason County apparently adopted a comprehensive land use plan in 1971, however, no adopting document or date of adoption was submitted.

(2) That Mr. Connolly, Mason County Planning Director, testified that the county had adopted a zoning ordinance "some-time past," however, that ordinance did not include a classification map and no zoning ordinance was submitted for consideration.

(3) That the comprehensive plan does not address pipelines or associated facilities.

6. King County

A. Findings:

(1) That King County has adopted a comprehensive land use plan and comprehensive plan map on October 13, 1964; various amendments were adopted subsequently through 1974 and were submitted as supplements to the plan.

(2) That King County adopted a zoning ordinance on April 29, 1963 with subsequent amendments through February 29, 1976. Zoning maps applicable to the area of the proposed pipeline have effective dates of February 4, 1974 and December 16, 1974.

(3) That both the county comprehensive plan and zoning ordinance address facilities similar to pipelines and generally define same as public utilities. The zoning code sets various conditions for public utilities with qualifying provision allowing installation.

(4) That the county has allowed a petroleum pipeline to transverse the county as an "outright use" acting under the same zoning codes.

(5) That the proposed pipeline may pass through a portion of the City of Enumclaw.

(6) That the City of Enumclaw adopted a comprehensive land use plan in December 1969 and zoning ordinance and maps were adopted October 8, 1973.

(7) That Enumclaw's comprehensive plan and zoning ordinance are silent with regard to petroleum pipelines.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with all county and the City of Enumclaw's land use plans and zoning ordinances that were in effect at time of application.

7. Kittitas County

A. Findings:

(1) That Kittitas County adopted a county comprehensive plan on June 5, 1972.

(2) That Kittitas County adopted a county zoning ordinance on January 15, 1968.

(3) That both the plan and ordinance were in effect on July 6, 1976.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with county or regional land use plans or zoning ordinances that are in effect and which apply to those sites in Kittitas County.

8. Grant County

A. Findings:

(1) That Grant County adopted a county comprehensive plan for the entire county in September 1963.

(2) That Grant County has a county zoning ordinance adopted on August 6, 1946, with subsequent amendments through 1976.

(3) That the City of Ephrata has a comprehensive plan, adopted on August 6, 1969, which plan does not involve the area of the proposed pipeline and associated facilities.

(4) That the City of Ephrata adopted a city zoning ordinance, Title 19, shown as being initially adopted in 1956 with subsequent amendments, such as in 1957 and 1966.

B. Conclusions:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with the Grant County's land use plan and zoning ordinance.

(2) That the proposed pipeline and associated facilities are consistent and in compliance with the City of Ephrata's land use plan and zoning ordinance.

9. Lincoln County

A. Findings:

(1) That Lincoln County adopted a comprehensive plan on March 6, 1962 and amended same on June 7, 1965.

(2) That the county plan sets forth land use categories, but does not apply these categories to any land nor does it include a land use map.

(3) That the county adopted a zoning ordinance on June 4, 1962 and amended same through May 12, 1969.

(4) That neither the comprehensive plan nor zoning ordinance addresses pipelines or associated facilities.

(5) That Mr. Terry Goodman, Planning Director, testified that he, the Planning Commission, and the Board of County Commissioners have concurred that the proposed pipeline and associated facilities are consistent with Lincoln County's comprehensive plan and zoning ordinance.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with Lincoln County comprehensive plans and zoning ordinances.

10. Spokane County

A. Findings:

(1) That Spokane County adopted a comprehensive plan, as prepared by the Spokane Regional Planning Conference, on December 21, 1961 with subsequent amendments on May 28, 1964 and March 26, 1970. A plan map for the metropolitan area of the county was adopted by the Planning Conference (regional) October 22, 1968.

(2) That the county adopted a zoning ordinance on December 17, 1937 and subsequent amendments through October 30, 1975. The zoning ordinance includes a series of zoning maps classifying land areas for the entire county.

(3) The zoning ordinance defines and sets forth conditions for "public utility facilities." The definition does not specifically address petroleum pipelines, however, the definition provides for inclusion of facilities "erected" by other "similar entities."

(4) That if the proposed pipeline is not a public utility, then both the comprehensive plan and zoning ordinance are silent regarding pipelines.

(5) That other petroleum pipelines transverse the county and were erected subsequent to the adoption of the same zoning ordinances.

B. Conclusion:

(1) That the proposed pipeline and associated facilities are consistent and in compliance with Spokane County or regional land use plans or zoning ordinance in effect at date of application.

IV. ORDER

IT IS ORDERED That insofar as Clallam County:

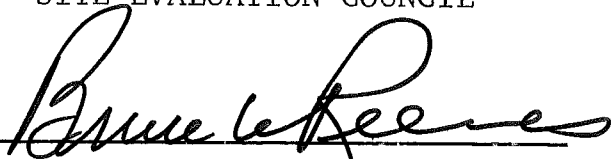
1. The proposed Northern Tier Pipeline Company marine oil terminal and pipeline and associated facilities are hereby determined to be consistent and in compliance with county or regional land use plans or zoning ordinances that were in effect on July 6, 1976 and which apply to those sites in Clallam County and the City of Port Angeles.

2. The proposed Northern Tier Pipeline Company tank farm is hereby determined to be inconsistent and not in compliance with the Clallam County comprehensive plan and zoning ordinances that were in effect on July 6, 1976 and which apply to the site in Clallam County.

3. That insofar as Jefferson, Mason, Thurston, Pierce, King, Kittitas, Grant, Lincoln and Spokane Counties, and the municipalities of Enumclaw and Ephrata, the aforementioned pipeline and associated facilities are hereby determined to be consistent and in compliance with county or regional land use plans or zoning ordinances that were in effect on July 6, 1976 and which apply to sites in the above county and city areas.

Dated at Olympia, Washington, and effective this 28th day of February 1977.

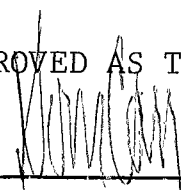
WASHINGTON STATE ENERGY FACILITY
SITE EVALUATION COUNCIL

BY 
for Lawrence B. Bradley
Chairman

ATTEST:

BY 
Roger Rolzin
Executive Secretary

APPROVED AS TO FORM:

BY 
Thomas F. Carr
Assistant Attorney General

BEFORE THE STATE OF WASHINGTON
ENERGY FACILITY SITE EVALUATION COUNCIL

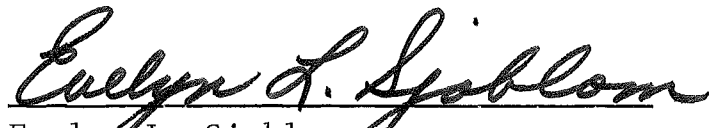
In the Matter of the	}	Application No. 76-2
Application		
Northern Tier Pipeline Company		PROOF OF SERVICE
a Montana Corporation		
.	}	

The undersigned certifies that on March 7, 1977, she served
the attached:

Memorandum dated March 7, 1977 (Polzin to Northern Tier
Distribution List) Subject: Council Order No. 529 Re-
lating to Initial Land Use Hearings

by depositing copies thereof in the United States mail, properly
stamped and addressed, as indicated on the Northern Tier distri-
bution list Rev. 2-22-77.

Dated March 7, 1977


Evelyn L. Sjoblom
Administrative Assistant